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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,121	12/10/2003	Roch Gaudreau	04104-058	4653

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EXAMINER

COOLMAN, VAUGHN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*MC*

**Office Action Summary**

Application No.

10/731,121

Applicant(s)

GAUDREAU ET AL.

Examiner

Vaughn T. Coolman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/10/2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07/07/2004</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION*****Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the ATV recited in claim 9 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

Claim 12 is objected to because of the following informalities: the claim refers to “a floor board as claimed in claim 13”, however, claim 13 does not exist. Furthermore, a claim

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cannot depend upon a successive claim; it can only depend upon a previous claim. For the purpose of examination, "claim 13" has been considered to indicate claim 11. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, 8, 9, 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "said frame" in line 1. There is insufficient antecedent basis for this limitation in the claim. The term "said frame" implies a previous positive recitation of such, where no recitation exists, and therefore renders the claim indefinite.

Claim 10 recites the limitation "said frame" in line 1. There is insufficient antecedent basis for this limitation in the claim. The term "said frame" implies a previous positive recitation of such, where no recitation exists, and therefore renders the claim indefinite.

The reason for the indefiniteness stems from the phrase "for a frame to support an object" in the preamble of the parent claim, claim 6. It is unclear whether the limitations contained in the phrase are part of the claimed invention. The phrase in the preamble of claim 6 is a statement of intended use. The floor board, the claimed invention, is used for supporting an object. Claims 7 and 10 recite "said frame" as if a frame had been positively recited in claim 6 as part of the claimed invention.

***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5 are rejected under 35 U.S.C. 102(a) as being anticipated by Hofmann et al. (US 5,738,180).

In re claim 1, Hofmann discloses a floor board comprising a supporting plate (FIG 2, item 24) including a plurality of openings (FIG 7, item 64) and a body (FIG 2, item 26) comprising a base (FIG 3, item 34) and a plurality of protuberances (FIG 4, items 40) extending from the base. A top surface is shown on the supporting plate (FIG 2), and the protuberances extend through the openings in the supporting plate away from the top surface. The supporting plate and the body shown by Hofmann each have a first rigidity and a second rigidity, respectively.

In re claim 2, Hofmann discloses the preferred materials of the supporting plate (24) and the body (26), to be metal and rubber, respectively (column 4, line 7; column 3, lines 30-31). The rigidity of metal is higher than that of an elastomeric material such as rubber.

In re claim 3, FIG 2 of Hoffman shows an assembly of the floor board wherein the base (34) of the body (26) is located underneath the supporting plate (24).

In re claim 5, Hofmann discloses the preferred material of the body (26) to be rubber, an elastomeric material.

Claims 6, 7, 10, 11 are rejected under 35 U.S.C. 102(a) as being anticipated by Hofmann et al (US 5,738,180).

In re claim 6, Hofmann discloses a floor board comprising a rigid supporting plate or platform (FIG 2, item 22) fixedly mounted on (column 3, lines 1-2) a frame of a motorcycle (not shown) and a plurality of protuberances (FIG 4, items 40) fixed to (FIG 4, item 44) and extending away from the top surface of the supporting plate (FIG 2).

In re claim 7, Hoffman discloses the floor board as being intended for a vehicle, more specifically, a motorcycle (column 3, lines 1-2).

In re claim 10, Hoffman discloses the floor board as being intended for a vehicle, more specifically, a motorcycle (column 3, lines 1-2). Motorcycles are considered outdoor equipment, as they are used almost exclusively outdoors.

In re claim 11, Hofmann discloses a floor board comprising a supporting plate (FIG 2, item 22) and a body (FIG 2, item 26) in contact with the plate, wherein said body includes at least one protuberance (FIG 4, item 40) extending away from the top surface of the supporting plate (FIG 2). The supporting plate and the body shown by Hofmann each has a first elasticity modulus and a second elasticity modulus, respectively. Hofmann discloses the material of the supporting plate (22) and the body (26), as being metal and rubber, respectively (column 4, line 8; column 3, lines 30-31). The elasticity modulus of an elastomeric material such as rubber is measurably, therefore significantly, lower than the elasticity modulus of metal.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann in view of Smith (U.S. Patent No. 6,663,129).

In re claim 4, Hofmann discloses all of the features of the claimed invention as described above except for the protuberances being of a conical shape. Smith teaches protuberances of a conical shape (33) for motorcycle floorboards in FIGS 2, 3, 6, 7, and 8. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the floor board protuberances as shown by Hofmann, with conically shaped protuberances as taught by Smith, since such a modification, according to Smith, would increase the utility of the floor board by providing the rider with more grip during off-road or competitive riding.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann in view of Lemieux et al. (U.S. Patent No. D424006).

In re claim 8, Hofmann discloses all of the features of the claimed invention as described above except for the attachment of the floor board to a snowmobile. Lemieux shows in FIG 1, a running board attached to a snowmobile. It would have been obvious to one having ordinary skill in the art at the time of the invention to mount the floor board as shown by Hofmann, on a snowmobile as taught by Lemieux. Hofmann discloses in his invention the advantage of providing vibration damping between the vehicle and the floor board assembly.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann in view of Mizuta (U.S. Patent No. 6,113,121).

In re claim 9, Hofmann discloses all of the features of the claimed invention as described above except for the attachment of the floor board to an ATV. Mizuta teaches a floor board

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mounted on an ATV (FIG 1, item 10). It would have been obvious to one having ordinary skill in the art at the time of the invention to mount the floor board as shown by Hofmann, on an ATV as taught by Mizuta for the same vibration damping characteristics as outlined above.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann.

In re claim 12, Hofmann discloses all of the features of the claimed invention as described above, except for the ratio value of 1,000 between the elasticity modulus of an elastomeric material such as rubber and the elasticity modulus of metal. However, it would have been obvious to one having ordinary skill in the art at the time of the invention that the ratio of elasticity modulus values for the metal chosen for the supporting plate and the rubber material chosen for the body member to equal 1,000, since it has been held that discovering an optimum value of a result effective variable only involves routine skill in the art. The effective result desired by Hoffman being the vibration damping characteristic of the combination of materials used in the floor board assembly.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kahn (U.S. Patent No. 884,493), Lin (U.S. Patent No. 5,67,3597), and Super et al. (U.S. Patent No. 6,619,156) all teach a floor board including materials of two different rigidities interacting in the manner of cooperating protuberances and openings through a support plate.

Gamble, et al. (U.S. Patent No. 1,263,755) shows a floor board including non-slip material protruding through openings in a support plate.



Jolly (U.S. Patent No. 6,553,603) and Chae (U.S. Patent No. 5,398,570) both teach conically shaped protuberances of a rigid material mounted to a vehicle. Jolly specifically teaches two materials for the base and the protuberances for the purpose of dislodging foreign materials from shoes and from the floor board as well.

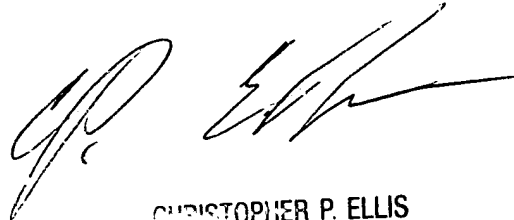
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vaughn T. Coolman whose telephone number is (571) 272-6014. The examiner can normally be reached on Monday thru Friday, 8am-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Travis Coolman  
Examiner  
Art Unit 3618

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